

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3714-01
Bill No.: HB 1394
Subject: Department of Corrections; Courts; Crimes and Punishment
Type: Original
Date: March 5, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	\$1,299,926	\$1,500,290	\$1,434,723
Total Estimated Net Effect on <u>All</u> State Funds	\$1,299,926	\$1,500,290	\$1,434,723

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of Prosecution Services, Office of the Governor** and the **Office of the Attorney General** assume this proposal would have no fiscal impact to their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials of the **State Public Defender (SPD)** stated that State Public Defenders provided representation in an average of 35 death penalty cases over the last two fiscal years. Public Defenders (PD's) are able to provide representation in 3 cases each fiscal year where the client is charged with murder and the death penalty is being sought. Likewise, PD's can provide representation in 18.75 murder cases where the death penalty is not being sought. The average of cost of required experts in a death penalty case is \$20,000 greater than a non-death penalty case. SPD officials assume this proposal would result in a savings of \$1,293,773 in FY03; \$1,595,882 in FY04; and \$1,640,460 in FY05 to the SPD system.

Officials from the **Department of Corrections (DOC)** assume the DOC executes an average of 6 death-row inmates per year. Pursuant to this proposed legislation, these offenders would now be commuted to life imprisonment without parole. At the end of each year thereafter, the DOC would have those additional 6 inmates remaining in the maximum-security population who would have been executed under current law.

The DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- ▶ \$44.80 (FY01 cost) maximum security (level C5) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- ▶ \$7,426 estimated current per-execution cost for a Capital Punishment (CP) offender, with an inflation rate of 3% per each subsequent year.

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2003, 2004, and 2005), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

ASSUMPTION (continued)

Abolish Death Penalty Assumptions			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	44.80	365	16,352
Construction (C4 or C5 \$55,000)			0
Execution Cost Savings	one-time per CP offender		(7,426)
Operating Inflation (3.0%)			1.030
Execution Inflation (3.0%)			1.030
Construction Inflation (3.0%)			1.030

	End FY Population	Average Population	Execution Offset	Operating Expense	Construction Expense	Total Cost w/ Inflation
FY 2002	0	(current year which will have no costs incurred)				
FY 2003	6	3	(44,556)	49,056	0	4,635
FY 2004	12	9	(44,556)	147,168	0	108,861
FY 2005	18	15	(44,556)	245,280	0	219,337
FY 2006	24	21	(44,556)	343,392	0	336,343
FY 2007	30	27	(44,556)	441,504	0	460,172
FY 2008	36	33	(44,556)	539,616	0	591,128
FY 2009	42	39	(44,556)	637,728	0	729,527
FY 2010	48	45	(44,556)	735,840	0	875,698
FY 2011	54	51	(44,556)	833,952	0	1,029,983
FY 2012	60	57	(44,556)	932,064	0	1,192,737
Total Ten-Year Fiscal Impact:						5,548,421

At this time, the DOC is unable to determine the number of people who would be convicted under the provisions of this bill to estimate the potential need for additional capital improvements. Estimated construction cost for one new medium to maximum-security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect
ASSUMPTION (continued)

of various new legislation, if adopted as statute.

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<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Savings – State Public Defender (SPD)</u>			
Personal Service (15.25 FTE)	\$402,515	\$495,093	\$507,471
Fringe Benefits	\$144,946	\$178,283	\$182,740
Expense and Equipment	\$73,767	\$91,175	\$93,911
Reduced Expert Testimony	<u>\$683,333</u>	<u>\$844,600</u>	<u>\$869,938</u>
Total <u>Savings</u> – SPD	\$1,304,561	\$1,609,151	\$1,654,060
 Costs - Department of Corrections			
Additional incarcerates	<u>(\$4,635)</u>	<u>(\$108,861)</u>	<u>(\$219,337)</u>
 ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	 <u>\$1,299,926</u>	 <u>\$1,500,290</u>	 <u>\$1,434,723</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would repeal the death penalty, remove all statutory references to the death penalty, and commute all death sentences pending as of the effective date of the bill to life sentences without parole.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

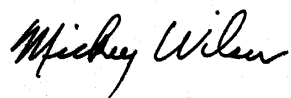
SOURCES OF INFORMATION

Office of the State Public Defender
 Department of Corrections

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Office of the Attorney General
Office of State Courts Administrator
Office of Prosecution Services
Office of the Governor

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Acting Director

March 5, 2002